



DEPARTMENT OF EMPLOYMENT AND TRAINING

STATE OF MARYLAND

HARRY HUGHES  
Governor

BOARD OF APPEALS  
1100 NORTH EUTAW STREET  
BALTIMORE, MARYLAND 21201

(301) 383-5032

BOARD OF APPEALS

THOMAS W. KEECH  
Chairman

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Associate Members

SEVERN E. LANIER  
Appeals Counsel

MARK R. WOLF  
Chief Hearing Examiner

— DECISION —

Decision No.: 493-BH-85  
Date: July 17, 1985  
Appeal No.: 12269  
S. S. No.:  
Employer: L.O. No.: 45  
Appellant: CLAIMANT  
Claimant: Eligha Taylor

Issue: Whether the claimant filed proper claims for benefits within the meaning of §4(b) of the law.

— NOTICE OF RIGHT OF APPEAL TO COURT —

YOU MAY FILE AN APPEAL FROM THIS DECISION IN ACCORDANCE WITH THE LAWS OF MARYLAND. THE APPEAL MAY BE TAKEN IN PERSON OR THROUGH AN ATTORNEY IN THE CIRCUIT COURT OF BALTIMORE CITY, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON August 16, 1985

— APPEARANCES —

FOR THE CLAIMANT:

Eligha Taylor

FOR THE EMPLOYER:

Department of Employment & Training  
John Roberts - Legal Counsel

## EVALUATION OF EVIDENCE

The Board of Appeals has considered all of the evidence presented, including the testimony offered at the hearings. The Board has also considered all of the documentary evidence introduced in this case, as well as the Department of Employment and Training's documents in the appeal file.

The Board has also considered the letter sent to the Board after the hearing by the representative for the agency and the copy of U. I. Division Instruction 15-79 attached to that letter. Although this letter and these instructions were not sent to the claimant, this additional information is wholly favorable to the claimant, and the Board will proceed to its decision.

## FINDINGS OF FACT

The claimant had filed for benefits with the benefit year' which began on September 19, 1983. He was receiving benefits in the amount of \$160 per week. In approximately March of 1984, the claimant returned to work where he worked until September 28, 1984.

The claimant then reapplied for benefits on October 1, 1984. Because the claimant's original benefit year had expired, the claimant would not automatically receive the same weekly benefit amount of \$160. Instead, the claimant's base year was recalculated according to §3(b) of the law.

When the claimant's base year was recalculated, it became of vital importance to him which quarters were included in his base year. If the claimant applied for benefits in the third quarter of 1984, his base period would be from April 1, 1983 through March 31, 1984. From this base period, the claimant's benefit amount would be \$101. On the other hand, if the claimant applied for benefits in the fourth quarter of 1984, his base year would run from July 1, 1983 until June 30, 1984. Using this base year, the claimant would be entitled to \$160 per week in benefits.

The claimant actually did apply for benefits in the fourth quarter of 1984. The case, however, gets more complicated than that. The "base period" defined in §20(a) of the law is determined by first deciding the date of "the commencement of the benefit year." The "benefit year" defined in §20(q) of the law begins, "with the first day of the first week with respect to which the individual next files a claim for benefits after the termination of his last preceding benefit year." Since October 1, 1984 was a Monday, the first day of that week was Sunday, September 30, 1984. The claimant's claim was thus automatically backdated to September 30, 1984 and the claimant was thus found eligible for the lower amount dictated by this different base year.

The claimant had received \$160 in his previous period of unemployment. When he filed a claim on October 1, 1984, he was not

informed that he would be entitled to more money if he simply waited until the following week.

Agency instructions specifically provide:

When a claimant reports to file an individual claim during the last week in a calendar quarter, the claims taker will advise the claimant that the base period will change at the beginning of the next week. The claimant should be given the option of filing a claim at that time or reporting back to the local office the next week.

U. I. Division Instruction 15-79  
Unemployment Insurance Division  
November 20, 1979

#### CONCLUSIONS OF LAW

The claimant in this case is asking nothing more than what the U. I. Division Instruction 15-79 clearly entitles him to in this case. The claimant clearly had no way of knowing that, although he was filing a claim in the fourth quarter, it would automatically be backdated to the third quarter and it would have a drastic effect on the amount of unemployment insurance benefits to which he was entitled. The Agency's instructions clearly indicate that a claimant in this situation is to be given a choice of benefit years. The Board has held in the past that where a claimant was given and makes such a choice, that choice is not revokable at will. Berkovich (1115-BH-81). In this case, however, the claimant was not even given this option. He has thus not made any irrevocable decision and should be allowed to withdraw the claim filed October 1, 1984 and apply for and receive a higher weekly benefit amount for each of the successive weeks for which he is otherwise entitled for benefits.

#### DECISION

The claimant is entitled to withdraw his claim filed on October 1, 1984.

The claimant is entitled to the calculation of a new benefit year based upon a claim filed the following week and to a benefit amount of \$160, based upon that new benefit year, for every week in which he files or has filed a claim and is otherwise or has been otherwise eligible.

The decision of the Hearing Examiner is reversed.

*Thomas W. Keech*

Chairman

*Maurice E. Hill*

Associate Member

*Harold A. Mowbray*

Associate Member

K:D:W

kbm

Date of Hearing: April 2, 1985

COPIES MAILED TO:

CLAIMANT

UNEMPLOYMENT INSURANCE - PIMLICO



DEPARTMENT OF EMPLOYMENT AND TRAINING

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BALTIMORE, MARYLAND 21201

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DECISION

Claimant: Eligha Taylor
Date: Mailed 12/ 20 / 84
Appeal No.: 12269
S. S. No.:
Employer:
LO. No.: 45
Appellant: Claimant

Issue: Whether the claimant filed proper claims for benefits within the meaning of Section 4(b) of the Law.

NOTICE OF RIGHT TO PETITION FOR REVIEW

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A REVIEW AND SUCH PETITION FOR REVIEW MAY BE FILED IN ANY EMPLOYMENT SECURITY OFFICE, OR WITH THE APPEALS DIVISION, ROOM 515, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON January 4, 1985

APPEARANCES

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Claimant-Present

Others: Karen Walker-
Claims Specialist

FINDINGS OF FACT

The claimant reported to his local office to file a claim for benefits during the claim week beginning September 30, 1984 and ending October 6, 1984. His benefit year was determined to be September 30, 1984.

The claimant had a prior benefit year which began September 19, 1983.

The claimant has been receiving checks for which he filed valid claims for benefits.

The purpose of the claimant's appeal is to have his benefit year changed from September 30, 1984 until one week following; that would be October 7, 1984, because he would be entitled to a higher weekly benefit amount than the \$101 determined by the Agency, as the claimant had earnings in other quarters which would up his weekly benefit amount.

CONCLUSIONS OF LAW

Maryland Unemployment Insurance Law, Section 4(b) is to the effect that any unemployed individual shall receive benefits with respect to any week only if the Executive Director finds that he has made a claim for benefits with respect to such week in accordance with such Regulations as the Executive Director may prescribe.

The Code of Maryland Regulations 07.04.02.03 C(1), benefit year, states:

The benefit year for any individual shall begin with the Sunday of the first week for which an individual files a valid claim for benefits pursuant to the provisions of 1(B) above. This benefit year shall continue for one full year.

It is clear that the claimant's benefit year is effective September 30, 1984. His request for a change of the benefit year cannot be granted.

DECISION

The determination of the Claims Examiner that the claimant's benefit year effective date is September 30, 1984 is affirmed.



John F. Kennedy, Jr.  
APPEALS REFEREE

Date of hearing: November 19, 1984

Cassette: 8451

hf (K.M. Smiker)

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Claimant  
Unemployment Insurance-Pimlico